

REMARKS

Claims 14 to 19, 26 and 28 are canceled without prejudice, and therefore claims 13, 20 to 25 and 27 are now pending.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

As previously explained, to facilitate matters, copies of the foreign references (cited and disclosed in the previously filed IDS and 1449 papers) accompanied the prior response. It is again respectfully requested that they be considered and made of record.

Applicants thank the Examiner for indicating that claims 26 to 28 contain allowable subject matter. While the objections and the underlying rejections may not be agreed with, to facilitate matters, the claims have been rewritten. In particular, claim 13 now includes the features of allowable claim 28, which has been canceled without prejudice. Claims 14 to 19 have also been canceled without prejudice. Also, claim 20 now includes the features of allowable claim 26, which has been canceled without prejudice. Claim 27 now depends from claim 20, and not canceled claim 26. Accordingly, claims 13, 20 to 25 and 27 are allowable. It is therefore respectfully requested that the objections be withdrawn.

Claims 13 to 17, 19 to 21, 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,138,788, (the “Bohner” reference) in view of U.S. Application No. 2003/0098197 (the “Laurent” reference).

Claims 18, 22 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the “Bohner” reference in view of the “Laurent” reference, and further in view of U.S. Patent No. 6,220,385 (The “Bohner II” reference).

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

While the rejections may not be agreed with, to facilitate matters, the claims have been rewritten. In particular, claim 13 now includes the features of allowable claim 28, which has been canceled without prejudice. Claims 14 to 19 have also been canceled without prejudice. Also, claim 20 now includes the features of allowable claim 26, which has been canceled without prejudice. Claim 27 now depends from claim 20, and not canceled claim 26. Accordingly, claims 13, 20 to 25 and 27 are allowable. It is therefore respectfully requested that the rejections be withdrawn.

Accordingly, claims 13, 20 to 25 and 27 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the pending claims are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

Dated: _____

5/20/2009

By: _____

Gerard A. Messina
Reg. No. 35,952

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO. 26646

*leg. no. 33,865
Aron C.
Dreos (TCF)*